

**REMARKS**

**Examiner Interview:**

In a conversation with the Examiner on December 17, 2003, the Examiner indicated that the claims as currently pending in the instant response would be examined and the non-responsive communication issued on November 20, 2003 would be withdrawn. Accordingly, herein, Applicants resubmit the response that was filed on September 22, 2003. Reconsideration is respectfully requested in light of the following remarks.

**Status of the claims:**

With the above amendments, claims 1-6 have been amended. No new matter has been added by way of the above amendments. The claims have simply been amended to recite a preamble that recites "a tire tread", which has support throughout the written description and also in the intended use in the claims as originally filed.

**Rejections under 35 USC §102**

Claims 1-6 are rejected under 35 USC §102(b) as being anticipated by Kent '122 (US Patent No. 4,100,122). The Examiner asserts that Table 2 in column 5 discloses a composition that comprises: 100 pbw polyisoprene rubber, 40 pbw fiber glass, 40-80 pbw silica, 20-25 pbw parawax, and 10 pbw

clay. The Examiner asserts that the clay in Kent '122 is smaller than 2  $\mu$ m in size (column 3, lines 16-17).

Applicants have amended claim 1 to recite "A tire tread having a rubber composition, wherein said rubber composition comprises . . . ." and have amended claims 2-6 to recite, "The tire tread according to claim 1, wherein the rubber composition . . . .". Because Kent '122 fails to disclose or suggest tires, Applicants believe that the rejection has been obviated as all of the elements in the claims are not present in Kent '122. Withdrawal of the rejection is warranted and respectfully requested.

#### **Rejections under 35 USC §103**

Claims 1-6 are rejected under 35 USC §103(a) as being unpatentable over Scholl '226 (US Patent No. 5,663,226). The Examiner asserts that Scholl '226 discloses a rubber such as SBR rubber (styrene butadiene rubber) and silica reinforcing filler. The Examiner asserts that although Scholl '226 does not disclose using a glass fiber filler together with another filler (such as a silicate) that it would be *prima facie* obvious to employ two fillers because they are targeted by the prior art to be useful for the same process. The Examiner cites *In re Linder* 173 USPQ 356 (CCPA 1972). Applicants submit that *Linder* is an inapposite cite because in *Lindner* there was a teaching that mixtures of

known dispersant compositions could be used. In Schott '226, there is no teaching that mixtures of fillers can be used. Thus, Applicants submit that there is no motivation to add both fillers to the composition. Accordingly, a *prima facie* case of obviousness has not been made. The rejection is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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